

an amount equal to an amount determined according to section 602.9107 added to an amount equal to the number of years the person served as a senior judge, divided by six, multiplied by the difference between the amount of the annuity the person is receiving on the effective date of the relinquishment and the amount determined according to section 602.9107. A person who is removed from a senior judgeship as provided in subsection 2 shall be paid a retirement annuity that commences on the effective date of the removal and is in an amount determined according to section 602.9107 in lieu of section 602.9204, and any service and annuity of the person as a senior judge is disregarded.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 2, 1995

CHAPTER 146
SEX OFFENDER REGISTRY
S.F. 93

†AN ACT related to criminal offenses against minors, sexual exploitation, and sexually violent offenses and offenders committing those offenses, by requiring registration by offenders, providing for the establishment of a sex offender registry, permitting the charging of fees, providing penalties, and providing for transition, applicability, and severability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 692A.1 DEFINITIONS.

As used in this chapter and unless the context otherwise requires:

1. "Convicted" or "conviction" means a person who is found guilty of, pleads guilty to, or is sentenced or adjudicated delinquent for an act which is an indictable offense in this state or in another jurisdiction, including, but not limited to, a juvenile who has been adjudicated delinquent, but whose juvenile court records have been sealed under section 232.150, and a person who has received a deferred sentence or a deferred judgment or has been acquitted by reason of insanity. "Convicted" or "conviction" does not mean a plea, sentence, adjudication, deferral of sentence or judgment which has been reversed or otherwise set aside.

2. "Criminal justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders.

3. "Criminal offense against a minor" means any of the following criminal offenses or conduct:

- a. Kidnapping of a minor, except for kidnapping of a minor in the third degree which is committed by a parent.
- b. False imprisonment of a minor, except when committed by a parent.
- c. Any indictable offense involving sexual conduct directed toward a minor.
- d. Solicitation of a minor to engage in an illegal sex act.
- e. Use of a minor in a sexual performance.
- f. Solicitation of a minor to practice prostitution.

†Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

- g. Any indictable offense against a minor involving sexual contact with the minor.
 - h. An attempt to commit an offense enumerated in this subsection.
 - i. Dissemination and exhibition of obscene material to minors in violation of section 728.2.
 - j. Admitting minors to premises where obscene material is exhibited in violation of section 728.3.
 - k. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "j".
- 4. "Department" means the department of public safety.
 - 5. "Residence" means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.
 - 6. "Sexually violent offense" means any of the following indictable offenses:
 - a. Sexual abuse as defined under section 709.1.
 - b. Assault with intent to commit sexual abuse in violation of section 709.11.
 - c. Sexual misconduct with offenders in violation of section 709.16.
 - d. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, kidnapping, or burglary.
 - e. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "d" if committed in this state.
 - 7. "Sexual exploitation" means sexual exploitation by a counselor or therapist under section 709.15.

Sec. 2. NEW SECTION. 692A.2 PERSONS REQUIRED TO REGISTER.

1. A person who has been convicted of either a criminal offense against a minor, sexual exploitation, or a sexually violent offense shall register as provided in this chapter for a period of ten years commencing from the date of placement on probation, parole, work release, or other release from custody. A person is not required to register while incarcerated. A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor or a sexually violent offense as a result of adjudication of delinquency in juvenile court shall not be required to register as required in this chapter if the juvenile court finds that the person should not be required to register under this chapter. If a person is placed on probation, parole, or work release and the probation, parole, or work release is revoked, the ten years shall commence anew upon release from custody.

2. A person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, shall register as provided in this chapter for an indeterminate period terminating only upon a determination by the sentencing court that registration is no longer required.

Sec. 3. NEW SECTION. 692A.3 REGISTRATION PROCESS.

1. A person required to register under this chapter shall register with the sheriff of the county of the person's residence within ten days of establishment of residence in this state or within ten days of any conviction for which the person is not incarcerated, a release from custody, or placement on probation, parole, or work release.

2. A person required to register under this chapter shall, within ten days of changing residence within a county in this state, notify the sheriff of the county in which the person is registered of the change of address and any changes in the person's telephone number in writing on a form provided by the sheriff. The sheriff shall send a copy of the change of address to the department within three working days of receipt of notice of the address change.

3. A person required to register under this chapter shall register with the sheriff of a county in which residence has been newly established and notify the sheriff of the county in which the person was registered, within ten days of changing residence to a location outside the county in which the person was registered. Registration shall be in writing on

a form provided by the sheriff and shall include the person's change of address and any changes to the person's telephone number. The sheriff shall send a copy of the change of address to the department within three working days of receipt of notice of the address change.

4. A person required to register under this chapter shall notify the sheriff of the county in which the person is registered, within ten days of changing residence to a location outside this state, of the new residence address and any changes in telephone number and shall register in the other state within the ten days, if persons are required to register under the laws of the other state. The sheriff shall send a copy of the change of address to the department within three working days of receipt of notice of the address change.

5. The collection of information by a court or releasing agency under section 692A.5 shall serve as the person's initial registration for purposes of this section. The court or releasing agency shall forward a copy of the registration to the department within three working days of completion of registration.

Sec. 4. NEW SECTION. 692A.4 VERIFICATION OF ADDRESS.

1. The address of a person required to register under this chapter shall be verified annually as follows:

a. On a date which falls within the month in which the person was initially required to register, the department shall mail a verification form to the last reported address of the person. Verification forms shall not be forwarded to the person who is required to register under this chapter if the person no longer resides at the address, but shall be returned to the department.

b. The person shall complete and mail the verification to the department within ten days of receipt of the form.

c. The verification form shall be signed by the person, and state the address at which the person resides. If the person is in the process of changing residences, the person shall state that fact as well as the old and new addresses or places of residence.

2. Verification of address for a person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, shall be accomplished in the same manner as in subsection 1, except that the verification shall be done every three months at times established by the department.

Sec. 5. NEW SECTION. 692A.5 DUTY TO FACILITATE REGISTRATION.

1. When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent, or in the case of conviction without incarceration, the court, shall do the following prior to release or sentencing of the convicted person:

a. Obtain fingerprints, the social security number, and a photograph of the person if fingerprints and a photograph and the social security number have not already been obtained in connection with the offense that triggers registration. A current photograph may also be required.

b. Inform the person of the duty to register.

c. Inform the person that, within ten days of changing residence, registration with the sheriff in the county in which residence is established is required, if the residence is within the state.

d. Inform the person that if the person moves their residence to another state, the person must give the person's new address to the sheriff's department in the county of the person's old residence within ten days of changing addresses, and that, if the other state has a registration requirement, the person is also required to register in the new state of residence, not later than ten days after establishing residence in the other state and to verify the address at least annually.

e. Require the person to read and sign a form stating that the duty of the person to register under this chapter has been explained. If the person cannot read, is unable to write, or refuses to cooperate, the duty and the form shall be explained orally and a written record maintained by the person explaining the duty and the form.

2. When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent, or in the case of conviction without incarceration, the court shall verify that the person has completed initial registration forms, and accept the forms on behalf of the sheriff of the county of registration. The sheriff, warden, superintendent, or the court shall send the initial registration information to the department within three working days of completion of the registration. Probation, parole, work release, or any other form of release after conviction shall not be granted unless the person has registered as required under this chapter.

3. The sheriff, warden, or superintendent, or in the case the person is placed on probation, the court, shall forward one copy of the registration information to the department and to the sheriff of the county in which the person is to reside within three days after completion of the registration.

Sec. 6. NEW SECTION. 692A.6 REGISTRATION FEES AND CIVIL PENALTY FOR OFFENDERS.

1. At the time of filing a registration statement, or a change of registration, with the sheriff of the county of residence, a person who is required to register under this chapter shall pay a fee of ten dollars to the sheriff. If, at the time of registration, the person who is required to register is unable to pay the fee, the sheriff may allow the person time to pay the fee, permit the payment of the fee in installments, or may waive payment of the fee. Fees paid to the sheriff shall be used to defray the costs of duties related to the registration of persons under this chapter.

2. In addition to any other penalty, at the time of conviction for a public offense committed on or after the effective date of this Act which requires a person to register under this chapter, the person shall be assessed a civil penalty of two hundred dollars, to be payable in the same manner as a fine. The clerk of the district court shall transmit money collected under this subsection each month to the treasurer of state, who shall deposit ten percent of the moneys transmitted by the clerk into the court technology and modernization fund, for use for the purposes established in section 602.8108, subsection 4, paragraph "a", and deposit the balance of the moneys transmitted by the clerk into the sex offender registry fund established under section 692A.11.

3. The fees required by this section shall not be assessed against a person who has been acquitted by reason of insanity of the offense which requires registration under this chapter.

Sec. 7. NEW SECTION. 692A.7 FAILURE TO COMPLY – PENALTY.

1. A willful failure to register as required under this chapter is an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person who willfully fails to register as required under this chapter and who commits a criminal offense against a minor, sexual exploitation, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent offense shall not be suspended. The court shall not defer judgment or sentence for any violation of the registration requirements of this chapter. The willful failure of a person who is on probation, parole, or work release, or any other form of release to register as required under this chapter shall result in the automatic revocation of the person's probation, parole, or work release.

2. In determining if a violation is a second or subsequent offense, a conviction for a violation of this section which occurred more than ten years prior to the date of the violation

charged shall not be considered in determining that the violation charged is a second, third, or subsequent offense. Violations in any other states under sex offender registry provisions that are substantially similar to those contained in this section shall be counted as previous offenses. The court shall judicially notice the statutes of other states which are substantially equivalent to this section.

Sec. 8. NEW SECTION. 692A.8 DETERMINATION OF REQUIREMENT TO REGISTER.

1. A person who is registered under this chapter may request that the department determine whether the offense for which the person has been convicted requires the person to register under this chapter or whether the period of time during which the person is obligated to register under this chapter has expired.

2. Application for determination shall be made on forms provided by the department and accompanied by copies of sentencing or adjudicatory orders with respect to each offense for which the person asks that a determination be made.

3. The department shall, within ninety days of the filing of the request, determine whether the person is required to register under this chapter.

Sec. 9. NEW SECTION. 692A.9 REGISTRATION FORMS.

Registration forms shall be prepared by the department and shall include the registrant's name, the registrant's social security number, the registrant's current address, and, if applicable, the registrant's telephone number. The forms may provide for the reporting of additional relevant information such as, but not limited to, fingerprints and photographs but shall not include information identifying the victim of the crime of which the registrant was convicted. Copies of blank forms shall be available upon request to any person from the sheriff.

Sec. 10. NEW SECTION. 692A.10 DEPARTMENT DUTIES - REGISTRY.

The department shall perform all of the following duties:

1. Develop and disseminate standard forms for use in registering of, verifying addresses of, and verifying understanding of registration requirements by persons required to register under this chapter. Forms used to verify addresses of persons required to register under this chapter shall contain a warning against forwarding of the forms and of the requirement to return the forms if the person to whom the form is directed no longer resides at the address listed on the form or the mailing.

2. Maintain a central registry of information collected from persons required to register under this chapter, which shall be known as the sex offender registry.

3. In consultation with the attorney general, adopt rules under chapter 17A which list specific offenses under present and former law which constitute criminal offenses against a minor under this chapter.

4. Adopt rules under chapter 17A, as necessary, to ensure compliance with registration and verification requirements of this chapter, to provide guidelines for persons required to assist in obtaining registry information, and to provide a procedure for the dissemination of information contained in the registry. The procedure for the dissemination of information shall include, but not be limited to, practical guidelines for use by criminal justice agencies in determining when public release of information contained in the registry is appropriate and a requirement that if a member of the general public requests information regarding a specific individual in the manner provided in section 692A.13, subsection 6, the information shall be released. The department, in developing the procedure, shall consult with associations which represent the interests of law enforcement officers. Rules adopted shall also include a procedure for removal of information from the registry upon the reversal or setting aside of a conviction of a person who is registered under this chapter.

Sec. 11. NEW SECTION. 692A.11 SEX OFFENDER REGISTRY FUND.

A sex offender registry fund is established as a separate fund within the state treasury

under the control of the department. The fund shall consist of moneys received as a result of the imposition of the penalty imposed under section 692A.6 and other funds allocated for purposes of establishing and maintaining the sex offender registry, conducting research and analysis related to sex crimes and offenders, and to perform other duties required under this chapter. Notwithstanding section 8.33, unencumbered or unobligated moneys and any interest remaining in the fund on June 30 of any fiscal year shall not revert to the general fund of the state, but shall remain available for expenditure in subsequent fiscal years.

Sec. 12. NEW SECTION. 692A.12 DUTIES OF THE SHERIFF.

The sheriff of each county shall comply with the requirements of this chapter and rules adopted by the department pursuant to this chapter.

Sec. 13. NEW SECTION. 692A.13 AVAILABILITY OF RECORDS.

Information contained in the sex offender registry is a confidential record under section 22.7, subsection 9, and shall only be disseminated or redisseminated as follows:

1. The department or a sheriff may disclose information to criminal justice agencies for law enforcement or prosecution purposes.

2. The department may disclose information to government agencies which are conducting confidential background investigations.

3. The department or a criminal justice agency with case-specific authorization from the department may release relevant information from the registry regarding a criminal offense against a minor, sexual exploitation, or a sexually violent offense, that is necessary to protect the public concerning a specific person who is required to register under this chapter.

4. The department may disseminate departmental analyses of information contained in the sex offender registry to persons conducting bona fide research, if the data does not contain individually identified information, as defined under section 692.1.

5. Criminal history information contained in the registry may be released as provided in chapter 692 or used by criminal justice agencies as an index for purposes of locating a relevant conviction record.

6. A sheriff shall release information regarding a specific person who is required to register under this chapter to a member of the general public if the person requesting the information gives the person's name and address in writing, states the person's reason for requesting the information, and provides the sheriff with the name and address of the person about whom the information is sought. The sheriff shall maintain a record of persons requesting information from the registry. The record of persons requesting information from the registry is a confidential record under section 22.7, subsection 9, unless the person requesting the information from the registry requests that the record of the information request be a public record.

7. Notwithstanding sections 232.147 through 232.151, records concerning convictions for criminal offenses against a minor or sexually violent offenses which are committed by a minor may be released in the same manner as records of convictions of adults.

Sec. 14. NEW SECTION. 692A.14 COOPERATION WITH REGISTRATION.

Each agency of state and local government which possesses information relevant to requirements that a person register under this chapter shall provide that information to the court or the department upon request. All confidential records provided under this section shall remain confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information.

Sec. 15. NEW SECTION. 692A.15 IMMUNITY FOR GOOD FAITH CONDUCT.

Criminal justice agencies, officials, and employees of criminal justice agencies and state agencies and their employees shall be immune from liability for acts or omissions arising from a good faith effort to comply with this chapter.

Sec. 16. STATE MANDATE. For purposes of section 25B.2, subsection 3, the moneys received from fees which are permitted to be charged under this Act shall constitute full funding of any state mandate which is not otherwise excluded from the requirements of that subsection and which is imposed upon a political subdivision under this Act.

Sec. 17. APPLICABILITY OF ACT – TRANSITION PROVISIONS.

1. The registration requirements of this Act shall apply to persons convicted of criminal offenses against a minor, sexual exploitation, or a sexually violent offense prior to the effective date of this Act but who are released on or after the effective date of this Act, are participating in a work release or institutional work release program on or after the effective date of this Act, or who are under parole or probation supervision by a judicial district department of correctional services on or after the effective date of this Act.

2. Persons required to register under subsection 1, shall register for a period of ten years commencing with the later of either the effective date of this Act, or the date of the person's release from confinement, release on work release or institutional work release, or release on parole or probation. For persons released from confinement, registration shall be initiated by the warden or superintendent in charge of the place of confinement in the same manner as provided in section 692A.5. For persons who are under parole or probation supervision, the person's parole or probation officer shall inform the person of the person's duty to register and shall obtain the registration information required under section 692A.5.

Sec. 18. SEVERABILITY OF ACT. If any provision of this Act or the application of this Act to any person is held invalid, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Approved May 3, 1995

CHAPTER 147

CHILD ABUSE AND TERMINATION OF PARENTAL RIGHTS

S.F. 208

AN ACT relating to child abuse and termination of parental rights provisions, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. IOWA CHILD DEATH REVIEW TEAM – FINDINGS AND PURPOSE.

1. The general assembly finds the following:
 - a. Protection of the health and welfare of the children of this state is a goal of its people and the death of children is an important public health concern that requires legislative action.
 - b. Collecting accurate data on the cause and manner of deaths will better enable the state to identify preventable deaths, and thus help reduce the incidence of such deaths.
 - c. Multidisciplinary review of child deaths is a mechanism to assist the state in developing a greater understanding of the incidence and causes of child deaths and the methods for prevention of such deaths.
2. The purpose of the child death review team is to aid in the reduction of the incidence of serious injury and death to children by accurately identifying the cause and manner of death of children.